

48A C.J.S. Judges § 15

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

I. In General

B. Nature, Creation, Regulation, and Abolition of Office in General

§ 15. Nature of office

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  1

The character of the office of a judge is generally determined by the nature of the powers it contains and the duties it imposes as specified by the constitutional or statutory provisions creating the office.

The character of the office of a judge is generally determined by the nature of the powers it contains and the duties it imposes as specified by the constitutional or statutory provisions creating the office.¹ A state's constitution may vest the state's judicial power in its courts' justices, judges, and magistrates.² A judge, at least to the extent that he or she exercises judicial functions,³ is a judicial officer.⁴ His or her duties, other than judicial, do not deprive a judge of his or her judicial status.⁵ Additionally, jurisdiction is possessed by the courts, not judges, since a judge is merely an officer of the court and not the court itself.⁶

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Footnotes

- 1 N.M.—*State v. Doe*, 91 N.M. 57, 1977-NMCA-085, 570 P.2d 595 (Ct. App. 1977), judgment rev'd on other grounds, 1977-NMSC-075, 91 N.M. 51, 570 P.2d 589 (1977).
- 2 W. Va.—*State v. Hoston*, 228 W. Va. 605, 723 S.E.2d 651 (2012).
- 3 Pa.—*Renshaw v. Mayor and Select and Common Councils of City of Philadelphia*, 248 Pa. 374, 93 A. 1080 (1915).
- 4 § 7.
- 5 Tenn.—*State ex rel. Smiley v. Glenn*, 54 Tenn. 472, 7 Heisk. 472, 1872 WL 3788 (1872).

Administrative officer as well as judicial officer
Or.—*Hanson v. Johnson*, 143 Or. 532, 23 P.2d 333 (1933).
- 6 Tex.—*Ex parte George*, 913 S.W.2d 523 (Tex. Crim. App. 1995).

As to the term "court" distinguished from the term "judge," see § 10.